

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF MISSOURI
EASTERN DISTRICT**

TNT AMUSEMENTS, INC., d/b/a)	
PLAY-MOR COIN-OP,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:23-cv-00330-SRW
)	
TORCH ELECTRONICS, LLC,)	
STEVEN MILTENBERGER, and)	
SONDRA MILTENBERGER)	
)	
Defendants.)	

DECLARATION OF NICK FARLEY

I, Nick Farley, am over the age of 21, of sound mind, and testify to the following based on my personal knowledge.

1. I am President of Nick Farley & Associates, Inc., a full-service regulatory compliance test laboratory and electronic gaming device consulting organization. Nick Farley & Associates serves the regulated gaming, amusement and vending industries.

2. I have been testing electronic gaming equipment for regulated gaming jurisdictions since 1987.

3. I have previously had the opportunity to review and examine an exemplar Torch amusement device, the NCG Deluxe Terminal version 5.5.0.17 ("Torch Device"). In connection with that examination, I reviewed each game, each possible configuration, the software source code, and the system software storage media for the Torch Device.

4. The Torch Device contains five different game themes. Each of those games contains a "Prize Viewer" feature that allows the player to view upcoming game outcomes. The player can do so by pressing the "Prize Viewer" icon on the video screen at any given time prior to the play of a game. Through this feature, the upcoming game outcomes can be displayed in advance of a player committing any credits. No payment or purchase is required to utilize the "Prize Viewer" feature. The "Prize Viewer" feature allows the player to view upcoming game outcomes without committing to any payment or purchase.

5. Upon using the "Prize Viewer" feature, the player can then choose to either play for the outcome displayed or exit the game. At any time prior to the initiation of game play, assuming a player has placed money in the machine, the player can choose to redeem their credit balance by simply pressing the "Collect" button, which will print a ticket containing the player's total balance from the machine.

6. To begin playing, the player can touch the “PLAY” icon on the video screen or press the “PLAY” button on the cabinet’s exterior to initiate game play.

7. All game outcomes after the initial game outcome selected will be selected and delivered sequentially from the appropriate predetermined finite pool. As the game outcomes are used, the terminal continues to deliver the next game outcome sequentially. Upon exhaustion of the entire pool, the pool is automatically replenished and will continue to deliver each of the game outcomes sequentially. After the selection of the first game outcome starting point in the table of predefined outcomes, the software does not randomize or shuffle outcomes based on play, nor does it allow operator interaction with the machine to alter the predefined outcomes. Neither the operators nor the players have the ability to affect the game outcomes that are distributed from the finite pools.

8. None of the games on the Torch Device utilizes a random number generator to determine the outcome of a game or the prize awarded. The outcomes of the games and prizes awarded are instead based on predetermined finite outcomes that are in sequential order. All game outcomes are predetermined, and the Torch Device continues to deliver the next game outcome sequentially.

9. Because the game outcomes are determined sequentially from the appropriate predetermined finite pool, and further because the “Prize Viewer” feature will always have the game outcomes available to be displayed to the player if the player chooses to utilize that feature, on any given play of the game on the Torch Device, chance does not play a role.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 27, 2023.



Nick Farley